TITLE II
VALUE ADDED TAX

EXPLANATION

Brief Overview

Title II imposes a tax on the sale of goods and services and on the importation of goods.

The tax is of the kind which has come to be known as a "value added tax." That is to say, the seller is liable for tax on the value the seller adds to the goods and services sold. Under title II the gross tax is arrived at by applying the rate of tax (15 percent) to the price for which the seller sells the goods or service. The gross tax is then reduced by a credit equal to the value added tax that has been paid on the seller's inputs (that is, on the goods and services used by the seller in producing the goods or service being sold).

The tax is very broad based, applying to all business turnovers from production or importation through the retail stage, with few exceptions. The breadth of the base makes it possible to achieve large revenues with a relatively low rate of tax. The broad base also minimizes the economic distortions from the imposition of the tax. And by its near universality, it simplifies both compliance and administration.

However, title II does contain relief provisions for areas that will be politically sensitive or administratively troublesome. For example, the draft statute exempts the activities of small traders (including farmers). It does not pay to squander scarce administrative resources to chase after small amounts. In addition, the tax does not apply to the public postal service, public transportation of persons, non-profit hospital and medical and dental services, non-profit activities in the public interest specified in regulations, and financial services.

Insofar as sales of goods in Progresa, and services performed in Progresa, title II will be administered by the Tax Administrator on the basis of an invoice system. The seller will give the purchaser an invoice (with the tax separately stated), which the purchaser will need to document any claim for a credit against the tax imposed on the purchaser's sale of the product. The seller will file monthly returns of tax and pay the tax with the return. Any excess of credits over the title II tax will be refunded to the seller.

The choice of the invoice system over some other system (such as measuring the value added in terms of the seller's wage payments and profits going into the product) was an easy choice. This is a system that has worked well in many countries. Among the reasons the invoice system was selected are:

(1) it serves as a firm basis for audit and enforcement,

(2) it lends itself better to computation of tax on a frequent basis (such as the monthly basis proposed in the BWTC), and

(3) it has the flexibility to differentiate between articles taxed at different rates if more than one rate of tax is adopted.

In the case of imported goods, the importer will be liable for the tax on the customs value of the import, as shown in the relevant customs documents. The tax will be administered in the same way as a customs duty, and will be paid at the time any corresponding duty is payable.

For a more detailed discussion of the problems that may arise in framing and administering a value added tax law, a good starting point is Alan Tait's *Value-Added Tax, International Practice and Problems* (1986, International Monetary Fund, Washington, DC)

The explanation that follows clarifies the principles and meaning of the statutory draft and is intended to assist in the preparation of regulations that will implement title II when enacted.

Section-by-Section Explanation of Title II

Chapter 1 — Imposition of Tax

Sec. 201. Tax Imposed.

Section 201 imposes a 15 percent tax on each taxable transaction (as defined in section 211). The 15 percent rate is on the low side of the rates now being levied in most countries.

The rate is obviously a political decision which must be made by each country after taking into account both the revenue needs of the country and the rate at which the tax will cease to have widespread acceptance.

It will be noted that (aside from exports zero-rated under section 222) there is only one rate of tax — 15 percent. To have multiple rates of tax increases greatly the difficulties of compliance and administration.

Chapter 2. Taxable Transaction; Taxable Person

Sec. 211. Taxable Transaction.

Subsection (a)

Subsection (a) of section 211 lists as types of transactions taxed:

(1) the sale of goods and the performance of services, where the sale or performance is treated as taking place in Progresa under the rules of sections 251, 252, and 253, and

(2) the importation of goods and services that will be used or consumed in Progresa.

Subsection (a) of section 211 also treats as a taxable transaction the exporting of Progresa-produced goods and services for use or consumption outside of Progresa. This treatment of exports is necessary to serve as a basis for the zero-rating provision of section 222. By being zero rated (rather than exempt from tax) an export comes within the tax system and thus qualifies for the credit on inputs, thereby freeing exports from the burden of the value added tax.

Under the source rules certain services part or all of the performance of which is outside Progresa but the utilization of which occurs in Progresa are treated as taxable transactions. In this case, where a foreign supplier does not have a permanent establishment or registered agent in Progresa, section 241(e) of the code contemplates that the tax will be collected from the recipient of the service in Progresa.

Subsection (b)

Subsection (b) of section 211 contains two additional requirements for a domestic supply to be treated as a taxable transaction:

(1) the supplier must be a taxable person, and

(2) the transaction must be business-connected.

These additional requirements do not apply in the case of imports nor do they apply in the case of the sale of immovable property (see section 214).

Subsection (c)

Subsection (c) of section 211 provides that certain transactions are to be outside the tax base. The listed transactions will be exempt from tax. One of the important areas will be the non-profit activities in the public interest specified in regulations under section 211(c)(4). Indeed, the legislature of Progresa may well want to spell out these exempt activities in the statute. Many countries grant exemptions for one or more of the following public or other non-profit activities: educational, charitable, welfare, social security, sports, and cultural activities. Some countries exempt noncommercial public radio and television services.

Since the decisions here are political ones, we have made no recommendations for the activities to be exempted under section 211(c)(4). However, whether the exemptions are granted by statute or by regulations, great care should be taken to define the scope of each exemption as narrowly as possible. In the case of non-public organizations, the following should be taken into account:

(1) whether the organization is exempt from tax under section 91(b) of the Code,

(2) whether the organization is managed and administered on an essentially voluntary basis by persons having no personal interest in the results of the activities,

(3) whether the organization charges public-approved prices, and

(4) whether an exemption would place at a disadvantage commercial enterprises subject to VAT.

Subsection (c)(5) of section 211 exempts from VAT banking, brokerage, insurance, and other financial services. For most financial services, particularly where the supplier is acting as an intermediary between two other persons, the bulk of the charges are hidden in the rates or other financial margins the supplier establishes. Because most countries have had difficulties in establishing the proper tax base for financial intermediation activity, we have not extended the VAT to financial services.

Subsection (c)(6) of section 211 permits the exemption by regulations of the transfer of a business from one taxable person to a second taxable person. The intent here is to avoid the cascading of taxes when the ownership of a business changes but the business continues to operate as in effect the same going concern. This authority to exempt transfers could apply to sales of businesses and thus goes beyond the reorganizations of businesses that would be free of income tax under title I.

Similarly, under section 211(c)(6) regulations could provide exemptions for the transfer of a part of a business. But here especial care will have to be exercised to ensure that the transaction is indeed a bulk transfer of a unified business activity.

Sec. 212. Definitions Relating to Taxable Transactions.

Subsection (a)

Subsection (a) of section 212 defines "goods" as meaning tangible property (but not intangible property). Money is specifically excluded.

Subsection (b)

Subsection (b) of section 212 defines "service" as meaning anything of value other than goods or money.

Subsection (c)

Subsection (c) of section 212 contains a general definition of the term "supply." It was thought desirable to have one word covering both the sale of goods and the performance of services.

Subsection (c)(4) specifically treats as a supply of goods the furnishing of electricity, gas, water, heating, refrigeration, air conditioning, and other like items. These utilities were included as goods rather than as services because the simpler source rules for goods set forth in chapter 6 seemed more appropriate than the more complex source rules for services. Since the government (and its subdivisions and agencies) to the extent engaged in business is considered to be a person under section 213(a)(1)(B) of the Code, title II will impose tax on utility services furnished for a consideration by a government enterprise that is a taxable person under section 213(b).

Under subsection (c)(5)(A) of section 212 the leasing (or other granting of the right to use) of goods is specifically included in the term "service." Since a building is included in the term "goods," any business lease of a building will be subject to VAT.

Similarly, the term "service" includes the granting of any right to use part or all of a building. Thus, for example, the granting of accommodations in a hotel, motel, or similar establishment and the granting of parking or storing privileges would constitute a "service."

Subsection (c)(6) makes it clear that tax cannot be avoided by claiming that the activity was illegal. Some countries may object to this provision because it seems to give official approval to illegal activities. However, on balance it was felt that the provision would give an additional weapon against crime and would not place illegal activities in an untaxed and therefore economically preferred position.

Subsection (e)

Subsection (e) of section 212 clarifies the requirement of section 211(b)(2) that to be taxable a transaction (other than an importation) must be in connection with a business. To meet this requirement there must be more than one or two casual sales. Instead, there must be an activity regularly carried on, whether or not for profit. It should be noted, however, that there is no requirement that the goods sold be new. Thus, an activity of selling antiques or other used articles, if regularly carried on, would give rise to taxable transactions.

Sec. 213. Person and Taxable Person.

Subsection (a)

Subsection (a) of section 213 defines "taxable person." As noted earlier, the term includes governments. It also includes the business and commercial activities of organizations which are exempt from the income tax. For purposes of this tax, partnerships and other pass-throughs will be treated as taxable persons and subject to tax in the same manner as corporations. In a country that permits trusts to engage in business, the term would include trusts.

Subsection (b)

Subsection (b) of section 213 defines "taxable person" as any person registered for VAT or required to register for VAT. Persons required to register are those having gross receipts from taxable transactions over a 12-month period of more than PR 100,000. For an explanation of this registration requirement, see the explanation below under section 241.

Subsection (c)

Subsection (c)(1) of section 213 provides that an employee is not to be treated as a separate person for purposes of title II. The employee's activities as employee are treated as activities of the employer.

Subsection (c)(2) of section 213 deals with agents who are not employees. In general, their activities in supplying goods and services for their principal will be treated for title II purposes as the activities of the principal. However, the agent will be treated as the supplier with respect to the services provided by the agent for the principal and the charges paid therefor. In addition, under section 244(b), the regulations may provide that the agent may also be liable for the VAT on the supply itself in certain cases (as where the agent has control of the consideration received for the supply).

Sec. 214. Special Rules for Sales of Immovable Property.

In the Preliminary Edition of the BWTC the term "goods" did not include land and existing buildings (that is a building that has been taxed one time under VAT). Similarly, the leasing of buildings was not covered by the term "service" except for certain specified uses such as the rental of hotel and motel accommodations and of parking and storage facilities. These provisions reached the same general result as is reached under the laws of perhaps a majority of the countries of the European Union, although the laws of the members of the European Union are far from uniform in this area. In addition some of the countries that have exempted land and buildings from the VAT have substituted for VAT coverage high, cascading transfer taxes.

We now believe that a country, particularly a country transferring ownership of immovable property to private hands, may do well to consider applying modified VAT rules to land and buildings. For this reason we have inserted a new section 214 in the statutory draft. Under this approach there would be no special exemptions from goods and services for land and buildings. In addition, a sale of immovable property would be taxable even where one or both parties were not engaged in a taxable business and were not "taxable persons." A business connected purchase by a taxable person would entitle the purchaser to an immediate credit. An individual home purchaser for nonbusiness use purchasing from a nonbusiness seller would be entitled to an immediate refund of the tax paid on the sale to him unless this were the first sale of the property under the VAT. And the regular rules of VAT would apply to leases of immovable property. Business leases would be taxable; nonbusiness leases would not. Business leases would be entitled to credit; nonbusiness leases would not.

This approach would not only broaden the VAT base significantly and permit a lower tax rate. It would also eliminate some of the economic dislocations arising under most of the other suggested solutions in this troublesome area by reason of differential tax treatment (between immovable and movable property, between new and existing buildings, and between owners and renters).

Chapter 3. Taxable Amount; Zero Rating; When Transaction Takes Place

Sec. 221. Taxable Amount.

Subsection (a)

Subsection (a) of section 221 provides that in general the taxable amount will be the sum total of all consideration for the supply. The amount is exclusive of the value added tax itself, and takes into account any price adjustments (such as discounts or rebates) in effect at the time of supply.

Subsection (c)

Subsection (c) of section 221 provides that price readjustments occurring after the time of the supply will require a redetermination of both the tax under section 201 and the credit under section 231. The redetermination will be made on the basis of the tax rate in effect at the time of the supply, but the resulting changes in tax and credits will be taken into account for the taxable period in which the price readjustment occurs. For purposes of this provision, a bad debt arising from a supply is to be treated as a price readjustment occurring when the debt becomes worthless.

Subsection (d)

Subsection (d) of section 221 provides the general rule that the taxable amount for imports is the customs value (including insurance and freight), plus customs duties and excise taxes (but not including the tax imposed by section 201).

Sec. 222. Zero Rating for Exports.

Section 222 provides that exports (by being taxed at a zero rate) will not bear the burden of the value added tax. This will, of course, make the exports more competitive than if they bore the tax. However, this treatment of exports does not constitute a violation of the General Agreement on Tariffs and Trade (GATT).

The zero-rating is more advantageous than an exemption, because the zero rating brings the export within the tax system and permits the exporter to claim as credit the value added tax paid on inputs.

The regulations will require documentation and other substantiation establishing that goods and services were in fact exported from Progresa for use and consumption outside of Progresa.

Sec. 223. Method of Accounting;When Transactions Take Place.

Subsection (a)

Subsection (a) of section 223 provides that the basic method of accounting for the VAT is to be the accrual method. The Tax Administrator may permit use of the cash method in special circumstance specified in regulations. Presumably this authority will be used only for taxable persons with low annual turnovers (that is, for business operations often labeled as "small business").

Strong arguments have been advanced for making the cash method the general rule for countries in transition to a market economy, at least for a temporary period. It is argued that the shock to the business community will be less, and business will be given additional time to familiarize itself with the new concepts (such as economic performance) underlying accrual accounting. It is furthermore argued that the cash method will not place such a heavy cash flow burden on the many enterprises (such as the state-owned enterprises) that are already staggering under a large burden of unpaid bills and taxes. Finally, it is argued that the cash method is easier to administer.

We are convinced that for each of these arguments there are persuassive opposing arguments. The value added tax is a tax based on accounts. Throughout the world there has been a shift by developed countries to accrual accounting in order to reflect more accurately the realities and timing of the economic activity involved. The new concepts to be learned are not that difficult — and they are better learned at one time rather than after an introductory period in which the nuances of the cash method are first learned. In a sense, administrative complexities are lessened by an accrual method because its primary reliance is on one document (the invoice) rather than on the two documents relied on by the cash method (the invoice *plus* the receipt for payment). And, finally, there will be a cash flow problem for business (which will necessitate transitional rules to spread the new tax load over a period of time) in a transition to either a pure cash method or an accrual method. This cash flow problem arises in large part from moving from the hybrid system now in effect in many countries in transition. At present they levy the VAT when the goods are sold but allow credits at an earlier time (usually when purchased materials are placed in the production line).

Thus, our choice in section 223(a) has been for an accrual method of accounting. Regulations will deal with the detailed problems that will arise in certain areas, such as service's performed on a continuing basis, installment sales, and leasing.

Subsection (b)

Under subsection (b) of section 223, the liability for tax will ordinaarily arise under the accrual method on the date the invoice is issued. But to ensure that the issuance date is not unduly postponed (with a corresponding postponement of liability for tax), we have provided that the tax liability will in any case arise no later than the 10th day after the earlier of the date when payment is made or the date when the goods are delivered (or the service performed).

Subsection (d)

Subsection (d) of section 223 establishes one rule for when imports of goods are treated as taking place. Here the tax attaches when the goods are released from customs custody.

Chapter 4. Credits; Refunds; Invoices

Sec. 231. VAT on Inputs Credited Against Tax.

Subsection (a)

Subsection (a) of section 231 allows a credit for value added tax that has been levied on the supply of goods and services to a taxable person or on imports by the taxable person, but only to the extent that such goods, services, and imports are used for goods and services sold (or exported) in taxable transactions.

It will be noted that to be eligible for a credit, the claimant must be a taxable person. Thus a farmer or other person who is exempt from tax as a small trader will not be eligible for credit.

Subsection (c)

Subsection (c) of section 231 provides the general rule that input credit is to be allowed only for that portion of the supplier's transactions on which VAT has been imposed. Thus, if the business has:

(1) transactions that are exempt from tax under section 211(c),

(2) foreign transactions that are not taxable because the place of supply is outside Progresa,

(3) nonbusiness transactions (such as the use of goods and services for gifts or the personal consumption of the owners), or

(4) any other transaction on which tax has not been levied,

the input credits are to be reduced in the manner provided by regulations. In many cases, section 231(c) will be carried out pursuant to a general allocation formula under which aggregate nontaxable transactions are compared with the total transactions of the business. For this purpose each transaction could be taken into account on the basis of its taxable amount (or, if there is no taxable amount, its fair market value).

The second sentence of section 231(c) contains a 5 percent de minimis exception. No adjustment to input credits is required under section 231(c) for any period if the nontaxable transactions do not exceed 5 percent of the total transactions for that period. This sentence is inserted to ease compliance and administrative difficulties where only a small percentage of nontaxable transactions is involved.

It should be pointed out that the treatment of gifts and personal consumption suggested here is not followed in some countries. These countries would attempt to tax all non-exempt transactions of taxable persons, treating gifts and personal consumption as sales at fair market value or at least at the supplier's cost. We believe that there is no happy solution for the treatment of nonbusiness transactions made in connection with the operation of a business. However, we feel that the provisions we are recommending here are perhaps more likely to be complied with than if the Code prescribed a deemed sale for each of these transactions.

Subsection (d)

Subsection (d) of section 231 also relates to the personal consumption problem. In almost every country we have visited there is concern about the great proliferation of luxury automobiles, and a desire to see that the tax laws are not framed so as to encourage this proliferation. Under subsection (d) of section 231 regulations could deny in whole or in part input credits attributable to the acquisition of passenger automobiles and other articles that can be used for personal purposes as well as for business purposes.

Subsection (f)

Subsection (f) of section 231 authorizes (but does not require) regulations under which a special credit would be allowed to dealers in used goods. The aim would be to give relief to dealers in large ticket items (such as cars, television sets, art, and antiques). As to most of these items the regular input credit would not be available because the dealer purchased the items from non-taxable persons. Under the authorized regulations the dealers could be required to keep a detailed account of the purchase and sale of each item and taxed only on the difference. Or they could be taxed only on the customary dealer margin for their type of transactions.

Subsection (g)

Subsection (g) of section 231 contains the very important requirement that claims for credit must be substantiated by invoices or other documentation specified in the regulations. However, the regulations may provide for substitute methods of substantiation where, for example, the original documentation is destroyed by fire, flood, or other disaster through no fault of the taxable person.

Sec. 232. Treatment of Excess Credits.

Section 232 makes the value added tax and its credits a self-contained system. Thus, unlike the income tax of title I and the excise taxes of title III, credits against the value added tax are taken into account only to offset other liabilities for the value added tax or to be refunded as provided in sections 233 and 234.

Sec. 233. Refunds for Exporters.

Sec. 234. Refunds Where Excess Credits Continue for 6 Months or More.

While many countries and tax administrators are resistant to any payment of refunds, prompt refunds are vital to securing long-run compliance with the VAT. Excessively long periods of waiting for sufficient offsets to use up excess credits would be unduly burdensome on the traders involved and would lead to additional compliance problems.

Section 233 provides for immediate refunds for exporters. Other taxable persons will be eligible for refunds under section 234 when they have had excess credits for a continuous period of 6 months. This will give the administrators a period in which to check on the validity of the claim.

When administrators feel more comfortable with the safeguards they have built into the system, their long-run goal should be to refund immediately all excess credits on input (whether from imports or domestic transactions).

Sec. 235. Invoices.

This section deals with invoices. As indicated earlier, title II relies very heavily on the invoice to ensure its enforcement. The invoice establishes the supplier's liability for tax and the recipient's entitlement to credit.

It should be pointed out that section 235(b)(5) requires the invoice to set forth the amount of the VAT. Some countries will object to the separate statement of the tax, preferring that customers (particularly retail customers) be shown only a total price that includes the amount of the tax. Although a value added tax can be operated on a tax-inclusive basis, and although this may make the tax more politically acceptable, it will make administration and auditing more difficult.

Chapter 5. Collection of the Tax

Sec. 241. Registration.

Subsections (a) and (b) of section 241 require the Tax Administrator to establish a register of all taxable persons, with a separate registration number for each person.

Registration is of critical importance to the effectiveness of any VAT. As far as domestic transactions are concerned, only persons required to be VAT registered as domestic suppliers are liable for the VAT on domestic supplies and eligible for input credits against the tax on these supplies.

Subsection (b)

Each person registered for the VAT is to have a registration number separating that person from all other suppliers. Ordinarily, the registration number will be the same number as the taxpayer identification number assigned for income tax and other purposes under section 516. However, the Tax Administrator should keep a separate list of all persons registered or required to be registered for domestic VAT purposes. Under section 241(d) each domestic supplier will be required to post a copy of the VAT registration at the principal place of business and at each branch, so that purchasers of the supplies can ascertain whether they will be eligible for credits on their purchases.

Subsection (c)

Subsection (c) of section 241 sets forth the requirement to register with respect to domestic transactions. Subsection (c) sets up a rolling 12-month period for testing businesses. If for any 12-month period (or for any period shorter than

12 months) a person has taxable transactions of PR 100,000 or more, that person must register as a taxable person.

The registration continues in effect until cancelled under section 241(c)(5). Except where the person ceases to exist, the cancellation cannot take effect until the registration period has lasted for 24 months and the taxable person has fallen below the PR 100,000 mark for the last 12 months. This minimum duration requirement is imposed to cut down on the manipulation of taxes and credits possible where a person could be registered under the VAT system for short periods of time.

The threshold at which this small trader exemption ceases and the VAT applies should be determined by weighing revenue needs against administrative and compliance costs. A threshold that loses not more than 5 to 10 percent of potential revenue might not be a bad tradeoff.

Subsection (c)(5) permits a person to waive the small trader exemption. To do so will permit the use of tax credits with respect to the inputs of such person, and will permit purchasers of the output to receive invoices and tax credits so that they will be liable only for the tax on the value they themselves add.

It should be noted that the small trader exemption does not apply to imports. The importer must register with respect to all imports other than those exempted pursuant to regulations under section 211(c)(8), relating to duty-free allowance and procedures for re-export.

Subsection (e)

Subsection (e) of section 241 deals with certain imported services. Where the foreign supplier (or the supplier's agent) is registered under section 241(c)(1) as a taxable business, the ordinary rules under title II for services supplied in Progresa will apply. However, where the foreign supplier is not so registered, it is necessary to provide an alternative method of collecting VAT. To fail to do so would place Progresa-based supplies of services at a disadvantage. Under subsection (e) of section 241 the recipient of the services in these cases is treated as both the supplier and the recipient. Thus, the recipient will be liable for tax as the supplier of the services, but if the supply is used in the recipient's business, the recipient will also be entitled to a credit under section 231.

Sec. 242. Monthly Returns.

Section 242 requires monthly returns of the value added tax. The amounts of money involved (15 percent of the supplier's gross receipts before tax) are so large that it would be unwise in most cases to permit the holding of these collected taxes for longer periods of time.

The statute also gives the Tax Administrator authority to require by regulations more frequent returns (such as weekly or biweekly) or less frequent returns (such as once every 2 or 3 months). Presumably the authority for less frequent returns will be used only for persons whose trading activity is so small that either they qualify as small traders (but waive their exemption) or they are in the range of activity immediately above the PR 100,000 a year threshold.

Subsection (c) provides a general rule for payment that the payment must be made on or before the 20th day of the month following the month in which the taxable transaction took place. If this 20th day is not a business day, under section 522(c) the filing and payment date will be the next business day.

Sec. 243. Assessment by the Tax Administrator.

Ordinarily the taxable person will file a return showing the VAT due for the month in question. This will constitute a self-assessment of the tax, and the tax will be due and payable with the filing of the return.

However, there will be cases when the Tax Administrator must assess the tax — such as when a timely return is not filed or the Tax Administrator believes the self-assessment is too low. Where the Tax Administrator makes such an assessment, the tax will be due and payable by the date specified in the assessment.

Sec. 244. Liability for Tax.

Section 244 places the liability for the value added tax with respect to any taxable transaction on the person engaging in the transaction. Ordinarily this will be the domestic supplier or the importer.

Subsection (b)

Subsection (b) of section 244 authorizes regulations extending liability for tax to an agent or other person (other than an employee) who makes a supply for a second person. This authority may be used in the case of persons who have control of the supply, the proceeds of the transaction, or both.

Sec. 245. Special Rules for Imports of Goods.

Section 245 provides the general rule that the value added tax on imports of goods will be administered by the Customs Administration. The section makes customs law (including penalties) applicable for this purpose. In the case of imports of goods, the customs officers will have the option of applying the sanctions provided by customs law or the sanctions provided by this Code.

Sec. 246. Coordination of Customs and Tax Administrations.

Section 246 deals with the coordination of all aspects of the application of the VAT and the excise taxes of title III to imports of goods with its application to domestic production, sales, and services. The Tax Administrator and the Customs Administrator will be jointly responsible for this coordination.

The division of administrative appeals in cases involving imports of goods, between the Customs Administration and the Tax Administration, will be made pursuant to regulations which follow the standards set forth in section 246(c).

Some countries may wish to place the administration of the VAT on imports of goods in the Tax Administration — the office that is charged with the collection of VAT on domestic supplies and on services. However, in most of the countries we have visited, since customs duties will be a very important source of revenues for years to come, there is either a separate customs administration or a desire to create such a separate administration. We believe that to have two sets of officials stationed at the borders, one collecting customs and one collecting VAT and perhaps excise taxes on imports of goods, is inefficient.

Sec. 247. Additional Charges for VAT Offenses.

Subsection (a)

Subsection (a) of section 247 authorizes the designated tax officer to assess an additional charge for certain specified VAT offenses. The additional charge will be assessed and collected as if it were a tax due. The amount for each such offense will be established by regulations but cannot exceed PR 1,000.

In addition to the charges described in subsection (a), violations will be subject to the general penalties provided in chapter 7 of title V of the Code. Section 562 provides an additional charge for failure to file a timely return, failure to pay on time, underpayments arising from negligence or misstatements, and fraud. In addition, under section 566 willful violations are punishable by fine or imprisonment.

Sec. 248. Suspension of Business.

Section 248 authorizes the closing of a business establishment for periods of not to exceed 7 days when there are repeated violations. It is contemplated that the regulations prescribed under section 248 will require the designated officer to furnish the business establishment a copy of a written report setting forth the violations and will establish a speedy appellate procedure (in addition to the appellate procedure provided by section 571) under which the operator of the establishment will have an opportunity to demonstrate that no violations occurred.

General Administrative Provisions

The general administrative provisions, which apply to the VAT as well as to the other taxes, appear in title V (section 501 and following).

Chapter 6. Place of Supply

Sec. 251. Supply of Goods.

Chapter 6, dealing with assigning transactions to particular countries for VAT purposes, is derived from the rules contained in the Sixth Directive of the European Union. While the general principle is that the country where economic performance occurs is the one having the best claim to impose the tax, the Sixth Directive contains detailed rules clarifying where economic performance is deemed to occur.

Thus, section 251 provides that transported goods are deemed supplied (and taxable) where transportation begins; assembled or installed goods are deemed supplied at the place where the assembly or installation takes place; and other supplies of goods take place where the goods are when the supplies occur.

Sec. 252. Supply of Services.

The rules for the supply of services are more detailed and complex than the rules for goods. Here the general rule is to look at the supplier's place of business from which the service is supplied. But there are four main categories of exceptions to the general rule. Of these four exceptions, perhaps the most important is dealt with in subsections (b)(1) and (c) of section 252. Under these provisions the customer's place of business is treated as the place of supply for professional services, advertising, the use of patents, copyrights, and know-how, and the other services listed in section 252(c).

Chapter 7. Miscellaneous Provisions

Sec. 261. Common Ownership and Group Registration.

Subsection (a)

Subsection (a) of section 261 lumps together all businesses under common ownership for purposes of the small trader exemption under section 241(c). Presumably the regulations here will follow the principles for related persons set forth in section 12 (l) of the Code. The members of a family are to be treated as a single owning unit. Indirect ownership (through one or more entities or arrangements) will be taken into account as well as direct ownership. And the percentage used to test common ownership will be 50 percent or more.

Subsection (b)

Subsection (b) of section 261 contemplates regulations setting forth the conditions where a group of related persons may be treated as if all their businesses were carried on by one member of the group. This provision will simplify compliance by the group, for the regulations may provide that they can dispense with invoices, and payment of tax, on transactions within the group. Thus, the member designated for this purpose will file returns for the whole group with respect to goods and services as they leave the group, and will credit the taxes paid on goods and services coming into the group and used in the group's output. The regulations defining related persons for this purpose will rely on the principles set forth in section 12(l) of the Code, but presumably a higher percentage (perhaps 80 percent) of common ownership will be required.

Sec. 262. Regulations.

Section 262 sets forth two of the categories of regulations which will be prescribed to implement title II.

The first category will amplify the assessment provisions of section 243. When the tax base cannot be ascertained because of insufficient evidence or otherwise, or when the reported tax base does not reflect the correct amount because the transaction was not made at arm's length, because false or fraudulent information was supplied, or otherwise, then the designated officer (using the best information available) is to determine and assess the correct amount of tax.

The second category will set forth the adjustments (if any) to be made in the tax and in the credits —

(1) where goods are returned to the supplier,

(2) where the recipient fails to pay for goods and services,

(3) where the goods are transferred in liquidations, insolvencies, and bankruptcies,

(4) where other transactions take place after the tax base was originally determined, and

(5) where there are other situations where fairness and the basic purposes of the value added tax require a modification of the taxable amount, the credit, or both.

Chapter 8. Transitional Provisions

Sec. 271. Registration Before January 1, 1996.

Section 591 of the Code provides the general effective date of January 1, 1996, for the new Code. Thus, in general title II will apply to transactions taking place on or after January 1, 1996. However, section 271 causes the registration provisions to take effect October 1, 1995, so the persons liable for tax will be registered and ready to carry out their responsibilities when the VAT goes into effect January 1, 1996.

Sec. 272. Contracts Entered Into Before Effective Date.

Section 272 deals with the problem of contracts entered into before January 1, 1996, where performance of the contract occurs in whole or in part on or after such date. In this case, the supplier will collect the tax from the recipient of the supply as if the original contract had included a provision requiring the recipient to pay that tax.

TITLE III
EXCISE TAXES

EXPLANATION

Brief Overview

Title III imposes excise taxes on the production and sale (or importation) of certain goods and on the performance of certain services.

(a) Basic Principles. — In the framing of title III certain principles were followed:

1. Excise taxes can and should carry a substantial portion of the revenue burden for Progresa, at least for the period before burgeoning prosperity will make it possible for the income tax to shoulder a larger share of the revenue burden.

2. It is better to have a relatively small number of taxes collected from a relatively small number of taxpayers than to have many items taxed and many persons liable for each tax.

3. Wherever possible, the tax should be an ad valorem tax (that is, based on the value of the item involved) rather than a specific tax based on volume, weight, number of units, or some similar measure. The use of ad valorem rates reduces the need for frequent tax changes in an inflation-affected economy.

4. The excise tax on imported goods should be the same as the excise tax on the domestic production of the same or like articles. This equality of tax treatment will reduce the proliferation of uneconomic domestic production (such as the manufacture of cars) to take advantage of any difference in excise tax rates. If for political reasons it is still thought desirable to protect a domestic industry, this can be done through the use of the customs laws rather than the excise tax system.

5. The excise tax system can help in furthering the health needs and environmental concerns of the people of Progresa. Thus, taxes are levied on alcohol and tobacco products and on motor vehicles and motor fuels.

6. And finally, the excise tax system, by taxing on an ad valorem basis goods and services used to a greater extent by the prosperous than

the poor, will help to give additional fairness to the package of taxes contained in this Code.

(b) What Goods and Services Should Bear Excise Taxes.

We believe that the starting point for an excise tax system should be taxes on —

1. Alcohol products
2. Tobacco products
3. Motor fuels

In an efficient system, these 3 taxes should produce at least two-thirds of the revenues from excises. In addition to producing significant revenue, all three may be collected at the producer level from a relatively few taxpayers, and all three have been recommended as having positive health effects.

Contrast these three taxes with a tax on the production or sale of clothing made in whole or in part of certain furs or natural leather (other than clothing for school children). Such a tax will encourage the substitution of clothing not made of the specified fur or leather (with diminishing revenue from the tax). And the scarce administrative resources of Progresa will not be efficiently utilized because of endless disputes about what articles are within the tax base and because every tailor and seamstress in Progresa will be potentially liable for the tax.

In addition to the basic three excise taxes of alcohol, tobacco, and motor fuels we have included four other taxes in title III. The first is the tax on the importation and production of motor vehicles. For most countries this will operate mainly as a tax on imports because there will be little domestic production other than some small-scale assembling of bodies and engines. However, the tax should be made applicable to domestic production as a safeguard against encouraging an uneconomic use of Progresa resources of capital and labor.

Some countries adopting a tax on the importation and production of motor vehicles may wish to adopt a companion tax on parts and accessories for motor vehicles of the kind used on highways. We have not included such a tax in the Code because the additional administrative problems will outweigh the revenue gains in most cases. It is likely that there will be many more producers of parts and accessories; it will be difficult to identify the taxed items where the item may be used for purposes other than highway-use motor vehicles; and, to avoid double taxation, an offset system must be worked out for parts and accessories when used in the production of new motor vehicles.

One other revenue source to consider as a useful supplement to the excise tax on motor vehicles is an annual property tax on motor vehicles used on the highways. A draft of such a tax is included in title IV.

The second additional excise tax contained in title III is the tax on long distance communications. What is considered "long distance" will vary from one country to another. We intend to cover calls beyond the local area for which there is a basic service charge.

It has been suggested that we drop the distinction between local and long distance so that all communication services will be subject to the tax. Other commentators object to any tax on communications, pointing out that these services will already bear a value added tax of 15% and that in many cases the tax is a tax on business rather than on consumption. Strong arguments have also been advanced against the other two additional taxes we have included in title III, the tax on transporting passengers by air outside of Progresa and the airport use tax. However, we consider these four additional taxes included in title III to be preferable to most of the other currently imposed excise taxes. In the case of developing countries perhaps the most productive taxes other than those we have included in title III are taxes on soft drinks, textiles, cement, sugar, and gambling. However, the list of goods and services on which excise taxes have been levied is almost endless. Among those most frequently encountered are documentary stamp taxes and taxes on precious stones and jewelry, furs, china and crystal goods, carpets, chocolate and chocolate products, matches, and salt.

In any case, we recommend that in deciding on the list of excise taxes, consideration be given to the 6 principles set forth above. It will be found that 6 to 10 taxes will produce 90% or more of the revenue that could be produced by 50 excise taxes. The shifting of scarce administrative resources from the collection of minor excise taxes to the major excise taxes, the value added tax, and the income taxes will more than make up for the small amount of gross receipts that will be given up.

(c) Ad Valorem Versus Specific Rates.

Many tax administrators and commentators believe that specific rates are preferable to ad valorem rates for most excise tax goods and particularly for alcohol and tobacco products. Many western European countries use specific rates for alcohol, tobacco, and motor fuels. For health reasons, some commentators have urged a variation of the usual specific rates. Under the variation, there would be but one uniform rate for all distilled spirits, wine, and beer. They would be taxed on unit of alcoholic content.

Certainly, the simplicity of a specific rate system is appealing. The producer or importer can be required to affix a prepaid stamp to the bottle of alcohol or pack of cigarettes. The administrator then merely checks on the authenticity of the stamp and the number of bottles or packs involved. The problem of inflation would be solved in part by the automatic inflation adjustment provided by section 79 of the Code for amounts in the Code expressed in Progs. With specific rates there would be no need for the administrator to monitor sales prices, particularly sales prices between related parties.

Why then do we insist on recommending ad valorem rates? Even with automatic periodic adjustments for inflation, revenues under a specific rate system will still lag during the periods between adjustments. Furthermore, there will be political pressures to cancel or postpone so-called "automatic" increases. (The argument will be made that the tax increases will just make inflation worse.) An additional reason for preferring ad valorem rates is that they are fairer for the less prosperous, whose economy brands under a specific rate would bear the same tax as the luxury brands of the affluent.

(d) Summary of Title III Excise Taxes.

The excise taxes imposed by title III, and their rates, may be seen in the following table:

Taxed Good or Service	**Ad Valorem Rate (percent)**
Beer	20
Wine	20
Distilled Spirits	40
Tobacco Products	40
Passenger Cars	30
Buses	30
Trucks	30
Motor Fuels	30
Long Distance Communication Services	10
Passenger Air Travel Into or Out of Progresa	20

In addition, section 342 imposes an airport use tax of PR 100 on departing air passengers.

Each country will have to establish the rate for each excise tax after studying all relevant factors. The revenue goal will be to maximize revenue without encouraging smuggling, contraband production, corruption, and the uneconomic substitution of other goods for the taxed goods. For the revenue goal the relevant factors will include the corresponding tax rates in neighboring countries, the elasticity of demand, the pattern of domestic consumption, and the costs of collection. But the policy makers should also take into consideration the extent to which the excise taxes may contribute to meeting the health and environmental concerns of the country, as well as the extent to which they may make the overall tax system more progressive in the relative burdens they place on various economic classes.

The explanation that follows clarifies the principles and meaning of the statutory draft and is intended to assist in the preparation of regulations that will implement title III when enacted.

Section-by-Section Explanation of Title III

Chapter 1. Alcohol and Tobacco Products

Sec. 301. Tax on Alcohol Products.

This section imposes a tax on alcohol products produced in Progresa or imported into Progresa.

It will be noted that the rate of the tax on beer and wine (20 percent) is only one-half of the rate on distilled spirits (40 percent). Many commentators believe that for health reasons these rates should be the same. However, policy makers and tax administrators have argued strongly that the lower rate is a political necessity in their country where wine (or beer) is drunk with meals in lieu of water.

Sec. 302. Tax on Tobacco Products.

This section imposes a tax on tobacco products produced in Progresa or imported into Progresa.

Sec. 303. Alcohol and Tobacco Products Defined.

This section defines alcohol and tobacco products by referring to numbers of the Harmonized System that has been adopted for tariff classification purposes by most of the trading nations of the world. In the case of production in Progresa, it is expected that the classifications used for tariff purposes will be followed, so that the categorization of these types of articles as taxable or not taxable will be uniform for domestic production and imports.

In making this use of the Harmonized System, we have assumed that tax reform in Progresa will go hand in hand with a thorough reform of the customs laws and customs administration of Progresa. Under the Code the value added tax and excise taxes on imported goods will be collected at the border by customs officers, who will already be applying the Harmonized System to collect customs duties. We believe it appropriate, for purposes of minimizing classification disputes and of placing imports and domestic production on a level basis, to use the same classification system for domestic production.

In applying the Harmonized System for purposes of the Code we intend to pick up the auxiliary descriptions and notes. For example, note 1 to chapter 22 (alcohol products) of the Harmonized System states that chapter 22 does not apply to medicines, perfumes, and toilet preparations described in listed provisions of the Harmonized System. It is our intent to incorporate note 1 and similar descriptive material as part of the definitions in title III based on the Harmonized System. We have made minor changes in a few of the article descriptions to make them more understandable to readers who do not have the Harmonized System at hand when they read the Code and Commentary. If there is any difference in coverage between our article description and the Harmonized System Number cited, we intend the System Number to be determinative.

Subsection (a) of section 303 defines "alcohol products" as meaning any article covered by Harmonized System Number 2203, 2204, 2205, 2206, 2207.10.30, or 2208. We have broken out Number 2207.10.30 from the other articles under Number 2207. By doing this we remove from tax certain alcohol used for industrial purposes and not fit for beverage purposes, such as denatured ethyl alcohol.

Number 2208 includes in the taxed articles those commonly thought of as distilled spirits, such as vodka, gin, whiskeys, rum, brandy, tequila, cordials, and liqueurs.

Subsection (b) of section 303 defines "tobacco product" as meaning any article covered by Harmonized System Number 2402 or 2403.

The articles covered by Number 2401 are unmanufactured tobacco (whether or not threshed or similarly processed) and tobacco refuse. These are not included in the definition of tobacco product and are therefore not subject to excise tax.

The articles covered by Number 2402 include the ones commonly associated with a tobacco tax: cigarettes and cigars. The articles covered by Number 2403 include pipe tobacco, smoking tobacco, wrapping tobacco, chewing tobacco, and snuff.

Sec. 304. Tax Base; Taxable Event.

Subsection (a) sets forth the tax base for alcohol and tobacco products (whether domestic or imported) as being the pre-tax retail price of the article.

Subsection (b) sets forth the rules for determining this pre-tax retail price. The Central Bank of Progresa will conduct a survey of retail prices in the principal markets of Progresa not less frequently that once every 3 months. From this survey there will be established a separate price for each category or brand of beer, wine, distilled spirits, cigarettes, cigars, and other products subject to tax under section 301 or 302 if that category sells at a price substantially different from other categories or brands. The price will be an average price determined by excluding the section 301 tax (or 302 tax) and the section 201 tax (VAT). The price established will be published by the Tax Administrator, made available to the Customs Administration and the producers and importers of the products, and will be in effect for the period specified in the publication notice. The price so established and published will not be reviewable by judicial action.

The survey function need not be placed in the Central Bank. It could, for example, be placed in the Tax Administrator. However, the official or institution chosen should be strong enough to withstand the pressures that will arise to block any true reporting of the full scope of increases in product prices.

As explained above, in recommending for alcohol and tobacco products and for motor fuel and motor vehicles ad valorem taxes based on average retail prices we were guided mainly by revenue considerations. But we also felt that this type of tax would keep step with inflation on a continuous, sensitive, and accurate basis. It will provide higher taxes on more expensive brands. And it will avoid the weakness of ad valorem taxes based on producer prices, where the producers can shift costs and profits down the line to related distributors and retailers.

The pre-tax retail price of any product can be determined from the current average retail price discovered in the retail price survey. To do this, the following formula can be applied:

$$X\ (\text{pre-tax retail price}) = \frac{Y}{1+R} - Z$$

In this formula:

Y = current average retail price (tax inclusive)

Z = amount of existing excise tax

R = rate of value added tax

An example will illustrate the application of this formula. Assume that the current average retail price (tax inclusive) of a litre of vodka in the principal markets of Progresa is 50 Progs. Assume further that the existing excise tax on this brand is 11 Progs per litre and that the VAT rate is 15%.

The pre-tax retail price will be:

$$\frac{50}{1.15} - 11 \quad \text{or} \quad 32.48\ \text{Progs}$$

Subsection (c) sets forth the taxable event. In the case of imports, this will be the act of importing. In the case of domestic production, it will generally be the removal from the bonded production center in which the article was produced. In either case, the tax will be based on the pre-tax retail price which is in effect at the time the taxable event takes place.

Sec. 305. Production and Withdrawal Requirements.

This section sets forth the requirements for producing alcohol or tobacco products in Progresa. The section establishes a procedure of close government supervision in bonded production centers owned and operated by persons who have registered in advance and have posted bond in sufficient amount, and with adequate security, to ensure that all potential liabilities for the applicable excise taxes will be met.

Ordinarily, the excise tax will be determined and paid when the product is withdrawn from the production center in which it is produced. However, a product may be withdrawn from one production center for transfer under bond to a second bonded production center for further processing (as in the case of fortifying wines). In this case the tax will be payable when the product is removed from the second production center.

Similarly, alcohol or tobacco products may be withdrawn for export. In this case the liability for tax will not be extinguished until there is satisfactory evidence that the exportation has been completed.

In some countries, particularly where the production occurs only at one or two government facilities, it may be felt that our registration, bonding, and payment requirements are unnecessary and overly protective of the revenue. However, we feel that all production of alcohol and tobacco products must be closely supervised even though this will be costly, and that the tax must be paid before the product gets out into the stream of commerce.

Chapter 2. Tax on Motor Fuels

Sec. 311. Tax on Motor Fuels.

This section imposes a 30 percent excise tax on the pre-tax retail price of any motor fuel imported into Progresa or produced in Progresa.

Sec. 312. Motor Fuel Defined.

Subsection (a) defines "motor fuel" as meaning any article covered by Harmonized System Number 2710.00.10, 2710.00.15, or 2720.18. In general this would tax any product derived primarily from petroleum, shale, or natural gas (whether or not containing additives) which is principally used as a fuel in internal combustion or other engines. Number 2710.00.10 includes diesel and fuel oils Nos. 2 and 3. Number 2710.00.15 includes gasoline (leaded or unleaded) and jet fuel (whether naphtha type or kerosene type). Number 2710.00.18 includes motor fuel blending stock.

The tax would not apply to kerosene or naphtha which is not motor fuel or motor fuel blending stock. Nor would it apply to lubricating oils or greases.

Subsection (b) of section 312 provides for a combined registration and exemption certificate system pursuant to which motor fuels to propel airplanes or helicopters or to provide heat for residences will be exempt from the excise tax.

The special treatment for aviation fuel was included because if aviation fuel were taxed more heavily in Progresa than in nearby countries, the sales of aviation fuel in Progresa would be adversely affected. The exemption for home heating oil was included to spare the poorer economic households from having to pay a relatively high portion of their income in excise taxes.

Sec. 313. Pre-Tax Retail Price.

This section provides that the survey method of establishing the pre-tax retail price described in section 304(b) shall be used for the motor fuel excise tax. The price so determined will be arrived at by excluding both the motor fuel tax and the VAT in the manner explained above. Again, a different price will be established for each category for which the principal markets in Progresa have established substantially different prices. Also, gasoline with the same octane rating but a different brand name will have a different pre-tax retail price if a different retail price is revealed in the survey.

Sec. 314. Taxable Event.

Subsection (a) provides that the taxable event for the motor fuel excise tax will be either the importation or the removal from the premises where produced.

Subsection (b) provides that under regulations prescribing the necessary bonding and other conditions, the tax on domestic production can be postponed where the motor fuel is transferred for further manufacture, or the tax can be in effect cancelled where there is satisfactory evidence that the motor fuel has been exported.

Sec. 315. Credit for Taxed Inputs.

This section allows the person producing a taxable motor fuel in Progresa a credit for the section 311 taxes which have been paid on motor fuel and motor fuel blends used in such production (whether the prior tax was paid with respect to domestic production or with respect to imports).

Chapter 3. Tax on Motor Vehicles

Sec. 321. Tax on Motor Vehicles.

This section imposes a 30 percent excise tax on the following articles produced in, or imported into, Progresa:

(1) passenger cars,

(2) buses,

(3) gasoline and diesel powered trucks (other than dump trucks and special purpose trucks), and

(4) bodies (including cabs) for the above.

In general the motor vehicle tax of section 321 applies to the production or importation of motor vehicles principally designed for the transport of persons or goods. It applies to used vehicles (whether imported or produced in Progresa from used parts) as well as to new vehicles.

It should be noted that the tax does not apply to tractors covered by Harmonized System Number 8701. The principal category excluded here will be farm tractors. Nor does the tax apply to special purpose vehicles described in Number 8705. This number covers such vehicles as wreckers, mobile cranes, fire fighting vehicles, concrete mixers, road sweepers, spraying vehicles, mobile workshops, and mobile radiological units.

Instead of including Number 8707 among the tax base articles, we built our own description for bodies for vehicles. This limits the taxed bodies to bodies for taxed vehicles and excludes, for example, bodies for tractors or for special purpose vehicles.

We mentioned above that some countries may wish to impose an excise tax on parts and accessories for vehicles subject to excise tax. Harmonized System Number 8708 provides a good starting point for the articles that should be covered by such a tax.

Sec. 322. Definitions.

This section defines "motor vehicle," "produced," and "producer." The concept of production is a broad one. It includes manufacture and production, as well as the assembly of a vehicle from new or used parts.

Sec. 323. Rules for Motor Vehicles.

Subsection (a) sets forth the tax base for imported or domestically produced motor vehicles. The importer or producer's excise tax will be based on the current average retail price in the principal markets of Progresa for the make and model concerned. The pre-tax retail price will be derived from the current average retail price in the manner explained above under section 304(b).

Subsection (b) describes the taxable event in the case of motor vehicles. Under this provision if a person who manufactures, produces, or assembles a motor vehicle in Progresa uses that vehicle before selling it (for example, use as a demonstrator) such person is treated as having sold it when that use begins. A similar rule applies when the person begins leasing it (whether before, or in lieu of, selling it).

Subsection (c) provides for regulations under which domestically produced motor vehicles may be transferred under bond for further manufacture or for export. In the case of a transfer for further manufacture, the transferee becomes the manufacturer of the vehicle, but the transferor remains liable for tax if the transferee fails to pay it.

Chapter 4. Communications Tax

Sec. 331. Long Distance Communication Tax.

This section imposes a 10 percent excise tax on the amount paid for long distance communication service.

Sec. 332. Definitions.

Subsection (a) defines "taxable communication service" as consisting of 3 elements:

(1) The transmission is of voice, pictures, printed or written materials, symbols, or sounds by telephone or any other media (other than vehicular transportation).

(2) The transmission is between 2 or more points, where at least one point is located in Progresa.

(3) The bill for the service is dispatched from, or to the recipient of the bill in, Progresa.

The first element is intended to be broad and to cover both recent and future innovations in the communications field. Thus, it is intended that satellite communications, fax machines, and data exchanges are to be covered, as well as other present and future innovations.

The second element requires that one point in the communications be located in Progresa. Thus, a conference call involving individuals in Progresa, Country B, and Country C would satisfy the second element even though the call originated in Country B or Country C.

The third element requires a connection between the billing and Progresa. In many cases this will be satisfied by the identity of the person furnishing the communication services and charging for such services where such person is engaged in the business of furnishing such services in Progresa. This element can not be avoided by establishing a billing operation outside of Progresa or by a resident of Progresa appointing a non-resident as agent to receive bills for communication services.

Subsection (b) defines long distance. Service is long distance if it involves communication over more than 16 kilometers between the central offices of the telephone zones of any 2 of the points involved in the communication.

Subsection (c) of section 332 relates to leased facilities. Often a communications carrier will lease its facilities to a second person who will in turn use the leased facilities to furnish a taxable communication service to a third person. Subsection (c) provides relief from double taxation of what is essentially the same service in these cases. In general, this will take the form of taxing only the transaction between the second and third persons. However, regulations may provide different treatment where to apply the general rule will result in collection of less than the full tax on the taxable services involved.

Chapter 5. Transportation Related Taxes

Sec. 341. Air Transportation Abroad.

This section imposes a 20 percent tax on the sale in Progresa of a passenger ticket for air transportation involving travel between Progresa and a point outside. Travel beginning in Progresa and ending in Progresa would not be taxable. But a ticket sold in Progresa for travel from one airport in Progresa to a second airport in Progresa and then to Country B would be taxable. Similarly, a ticket from Country B to two cities in Progresa would all be taxable if sold in Progresa.

Subsection (c) provides for credit or refund of the tax where the ticket is cancelled. There is to be no interest where the tax adjustment is made within 90 days of the day on which claim for it is filed.

Subsection (d) of section 341 deals with travel packages and other air transportation arrangements handled by brokers or other intermediaries. The regulations under this subsection will attempt to avoid double taxation of the same transportation service to the extent this can be accomplished without jeopardizing collection of the full amount of tax due.

Sec. 342. Airport Use Tax.

Subsection (a) imposes a tax on the use of an airport in Progresa by a person leaving the country by air.

Subsection (b) provides that the tax will be PR 100.

Subsection (c) provides that there will be only one tax per person per trip. Thus, a person flying from one city in Progresa to a second city in Progresa and then to Country B in one continuous passage will pay only one airport use tax.

Chapter 6. General Provisions

Sec. 351. Exemptions.

Subsection (a) contains the general rule that no individual or entity is to be exempt from any excise tax imposed by title III.

There will be tremendous pressure to make exceptions to this general rule — exceptions for government agencies, legislators, hospitals, special "meritorious" projects, etc. Each exception granted will increase the pressure for further whittling away of the tax base. At least we have set forth a good starting point.

Subsection (b) provides that in the case of imported articles, the exemptions for bona fide travelers, returning residents, and diplomats and for articles to be reexported that apply for customs purposes will apply for excise tax purposes. Since Progresa has a special exemption from customs duties in the case of motor vehicles brought back by returning residents, a similar exemption will apply to the motor vehicle excise tax.

However, regulations will be provided to prevent abuse of this exemption and will limit its application to cases where the person is indeed qualified as a resident who is returning to Progresa to stay, and where the imported item will be dedicated to the personal use of the returning resident.

Subsection (b) also provides that if a returning resident who has used the returning resident provision to import a motor vehicle (or any other article) within 1 year after the date of the importation:

(1) sells the vehicle,

(2) contracts to sell the vehicle, or

(3) permits a major part of the possession or use of the vehicle to pass to a person who does not live with the importer as a member of the importer's family,

then the exemption from tax is cancelled as of the date of importation. In that case the buyer or prospective buyer, or the new user or possessor, will be jointly and severally liable with the returning resident. The liability is an amount equal to two times the import duties and excise taxes that would have applied if there had been no exemption.

Sec. 352. Imported Articles.

This section provides that the excise taxes imposed on imported articles by title III will be collected, paid, and administered as if they were part of the customs laws. The importer will be liable for these taxes.

The provisions of section 245, providing for coordination of the activities of the Customs and Tax Administrations in the case of imported articles, apply to title III as well as to title II.

Sec. 353. Liability of Taxes on Domestic Goods and Services.

This section contains a table describing each tax imposed by title III, the person liable to pay the tax, and the person having the duty to collect the tax.

The administrative provisions relating to title III are contained in title V (section 501 and following). In general, it is contemplated that the excise taxes on domestic production will be collected by returns to be filed at the time and place specified in regulations and to be accompanied by payment of tax shown on the returns.

TITLE IV
PROPERTY TAXES

EXPLANATION

Brief Overview

As a country develops economically, major changes in its revenue sources usually occur. There tends to be increasing reliance on income and consumption taxes and less reliance on wealth or property taxes. However, regardless of the country's stage of development, the first two taxes we have included in title IV (the annual tax on land and buildings and the annual tax on motor vehicles) can yield stable revenues that will increase as economic development progresses. They are difficult taxes to avoid and do not pose insuperable collection problems. At the same time, as taxes on some of the most visible symbols of wealth (land, buildings, and motor vehicles) they will be seen by the general public as contributing to a more equitable balance in Progresa's overall system of taxation.

The third tax (the gross assets tax) is a tax that has been recently introduced in Mexico, Argentina, and a number of other Latin American countries. Much can be said against this tax. It discourages capital investment. It is unfair, taxing entities without regard to their profitability. It comes with all kinds of collection and enforcement problems (including problems as to valuation, concealment of assets, parking of assets with persons not subject to tax, and other planning and avoidance and evasion schemes). Nevertheless, we believe that a tax on the gross assets of relatively large entities (particularly if there is a credit against this tax for income tax paid by the entity) may be worth considering as a backstop to the country's tax on the income of these entities. This is particularly true of countries having great difficulty in collecting other taxes. The gross assets tax may serve these countries well as a temporary measure laying the groundwork for accepting the idea that taxes must be paid.

Brief Overview of Tax on Land and Buildings

To present but one draft of a tax on land and buildings requires making a number of arbitrary policy choices. The choices include answers to the following questions:

1. What property and what rights in property should be taxed, and what excluded?

2. Should the tax be based on area or value? Should the value be value under current use or under highest and best use?

3. What flexibility should there be as to tax base and tax rates?

4. What level of government (central, regional, or local) should administer the tax and what level of government should receive the resulting collections?

For a detailed discussion of how 14 countries tax immovable property, see *An International Survey of Taxes on Land and Buildings* by Joan M. Youngman and Jane H. Malme (1994) (Lincoln Institute of Land Policy, Cambridge, Massachusetts).

For most of the policy choices reflected in subtitle A of title IV of the Code numerous reasonable alternatives exist. In the discussion that follows we have noted some of these alternatives. At the same time we have tried to leave enough flexibility in the draft that reasonable results can be reached through the regulations prescribed under the statutory framework.

Section-by-Section Explanation of Tax on Land and Buildings

Chapter 1. In General

Sec. 401. Tax Imposed.

Section 401(a) imposes a tax each year on the land and buildings situated in Progresa.

Subsection (b) describes the amount of the tax. To give greater flexibility, the tax is designed as the sum of two components, one for land and the other for the buildings on that land. Each component has its own tax base and its own rate of tax.

Subsection (c) provides that the tax rate for each component is to be established in the annual budget. In each case the tax rate must be not less than 1% and not more than 2% of the land base or the building base, as the case may be. This range of rates was provided so that the tax would be more responsive to the annual budget needs. In addition, it may be that the government will choose a lower rate for the first year or two affected by a revaluation under section 422(a).

We provided the flexibility of different rates for land and buildings because there may be sound economic or policy reasons for such a differential. For example, a country which is privatizing land may wish to emphasize the continuing interest of the government in the land while giving relative encouragement to the construction of buildings on the land through a somewhat lower building rate of tax.

Sec. 402. Definitions.

Subsection (a) defines "immovable property" as meaning land and the buildings attached thereto.

Subsection (b) provides that the term "land" includes all immovable improvements to the land that are not classified as buildings.

Subsection (c) defines the term "building" as meaning an immovable structure (such as a building or container) that is attached to the land. The line between land and buildings will be elaborated in regulations, but in general the line falls between site improvements (which are taken into account as land) and other attached improvements (taken into account as buildings). Some countries may wish to draw the line between land and *all* improvements (including site improvements as well as buildings). We did not follow this route because of the administrative difficulties in separating the value of the site improvements from the value of the unimproved land.

Subsection (d) defines the term "property" as meaning a unit of land which will serve as the unit with respect to which the section 401 tax is levied. If the country already has clearly defined identifiable parcels or other units, these will ordinarily be used. In other cases, the units will be determined in the manner provided by regulations.

Sec. 403. Land Base.

Section 403 provides an area-wide or zonal method for establishing the land base of any property. The Property Office established in the Tax Service by section 441(a) will first divide the land in the country among the broad categories established by the statute. (Each country will have to determine what categories are most appropriate). The Property Office will then divide land in each municipality or other locality into zones. The land in any zone will have characteristics similar to the characteristics of other land in that zone. The Property Office will estimate the overall fair market value of the land in the zone and will then divide this value by the number of square meters in the zone to establish a per meter value that will apply to all land in that zone.

Some countries will have sufficient sales and other data and appraisal skills to establish a system in which each unit of land is separately valued. We used the zonal method set forth in the draft as being more practicable as a starting point for a country in which there have been few sales of land and appraisal skills are not widespread. However, it is recognized that over the years land valuation in a country is likely to change toward smaller and more specialized zones and then to determination of value on a specific parcel by parcel basis.

Sec. 404. Building Base.

The Property Office will establish formulas for determining building bases for properties. These formulas will be based on the country-wide costs of construction of new structures of the kind involved. In these formulas there should be taken into account clearly recognizable objective characteristics such as materials used (whether steel, cement, stone, brick, wood, or other) and uses for which the structure is suitable (such as office, retail, multifamily housing, single family housing, special purpose, or other).

Most of these formulas will result in a per square meter replacement cost that will then be multiplied by the total number of square meters of usable space on the various floors of the building concerned. However, in the case of special purpose structures a different unit may be appropriate. For example, the replacement cost assigned to a grain elevator or fuel tank may be based on the cubic meters of usable space.

Section 404(c) provides that the replacement cost for any building that is not new will be reduced by a depreciation factor. The size of this factor will depend on the type of building concerned and the number of years it has been in use. In no case, however, may the base for any building be reduced below 40 percent of the new construction cost of such a building.

In the case of a building in which there are separately owned units (such as a building containing condominiums), the building base for the entire building is to be divided among the owners in proportion to their respective shares of the building's usable space.

Chapter 2. Exemptions; Building Deductions; Tax Threshold

Sec. 411. Exemptions.

Section 411(a) exempts from the tax imposed by section 401 property owned by the government, nonprofits described in section 91(b)(2), or foreign governments. Some countries may wish to provide only partial exemption, or no exemption, for some or all nonprofit organizations. Other countries may couple an exemption from the section 401 tax with annual in lieu payments for services rendered.

Section 411(b) provides that the exemption of section 411(a) will not apply to property used (or held for use) in a commercial-type activity or for the production of income. Section 411(b) is intended to be broader than the unrelated business concept of section 91(b). It is intended to include activities of a kind comparable to the activities of a commercial enterprise even though the governmental or nonprofit activities do not yield a profit. Thus, for example, subsidized housing provided without charge or for low rents by the government, its agencies, and its enterprises or by nonprofits would be subject to the section 401 tax.

Section 411(c) contemplates that exempt organizations may be required to register their property and file annual reports with respect to its use in order to qualify for exemption from the section 401 tax.

Sec. 412. Principal Residence Deduction.

Section 412 allows a natural person a deduction of PR 200,000 a year. The deduction may be used only to reduce the building base for the person's principal residence and cannot be used against the land base of the property. The effect of this deduction will be to remove most modest homes from the building base, a policy that has been urged in the countries where the question was discussed.

Some countries may wish to substitute for section 412 a deduction of a specified amount for each residential unit serving as the principal residence of natural persons. This would place rented apartments on the same basis as owner-occupied homes.

Sec. 413. Tax Threshold.

Section 413 frees from tax any property if the liability under section 401 for the year does not exceed PR 200.

This section would seem to encourage the fragmentation of land holdings to minimize or avoid tax under section 401. However, this threshold is very low. Furthermore, the Tax Service can block any fragmentation loophole under its power in section 402(d) to define the units with respect to which tax is levied.

Sec. 414. Adjustment of Deduction and Threshold Amounts.

Section 414 authorizes the Executive Power to adjust the maximum amount for principal residences set forth in section 412 and the threshold set forth in section 413. However, these adjustments must apply on a uniform basis and may be made only in connection with a periodic revaluation under section 422.

Chapter 3. Property Valuation and Property Information

Sec. 421. Property Valuation Methods.

Section 421 requires the Tax Service to prescribe uniform methods for valuing land and buildings. The ultimate standard recommended in the Code is fair market value, that is, what the property would sell for in an open market.

Sec. 422. Revaluation; Indexation.

Section 422 requires the Property Office to review and adjust all matters entering into the determination of the amount of tax liability. This review and adjustment will take place every third, fourth, or fifth year. For the years that are not review years, the relevant items will be subject to the inflation adjustment contained in section 79 of the Code.

Sec. 423. Obligation To Supply Property Information.

Section 423(a) requires persons having an interest in, or information with respect to, the property to furnish required information to the Property Office.

Subsection (b) authorizes entry for valuation purposes.

Chapter 4. Notification and Billing

Sec. 431. Notification.

The notification, billing, and payment provisions of section 431 and 432 are especially suitable for levying a land tax in a country where it is not clear who owns what land. The procedure outlined is to levy the tax on the land itself and to give adequate notice to all who may have an interest in that land so they can protect their interest by making sure that the tax liability is satisfied.

The Property Office is required to issue a notification with respect to the tax liability of each property. Ordinarily this notification will be accomplished by posting the notification, containing the detailed information required by section 431(b), at a designated place (tax office, town hall, or other place) in the geographic area where the property is situated. Some countries may wish to require that where the owner of the property is known, notice should be sent by mail to the owner's last known address.

The fact that this notification procedure is being carried out will be publicly announced.

Sec. 432. Billing and Payment.

The bills for each geographic area will be paid at one or more designated points within that area.

The bills will be payable in 2 equal installments on May 31 and November 30 of each year. The bill for each installment will be posted at the designated payment point (or otherwise made available) at least one month before the due date for that installment.

Chapter 5. Administration; Miscellaneous

Sec. 441. Establishment of Property Office.

Section 441 provides for the establishment of a Property Office within the Tax Service to administer the tax on land and buildings. For this tax to succeed, in the long run there must be a comprehensive and accurate system for registering interests in land and transfers of those interests. Whether or not this registration is vested in the Property Office in the Tax Service is less important than that there be centralized responsibility for carrying on this registration.

In vesting the functions of assessing and collecting the tax in the Tax Service we do not wish to imply that it would be unreasonable to administer the land tax as a regional or local levy. We believe that the framework we have set forth in title IV could be easily adapted to create a regional or local levy Also, we wish to make it clear that we are not passing judgment on the proper level or levels of government to share in the revenues raised by the tax. Even though the tax here is collected by the central government, it would be perfectly feasible to pay over the proceeds of the tax to the regions or localities under a revenue sharing formula.

Sec. 442. Miscellaneous Enforcement Provisions.

Subsection (a) provides a special charge, which can be applied through administrative action, for failure to supply information in a timely and accurate manner.

Subsection (b) contains a cross reference to the general penalties for violations contained in sections 562 and 566.

Subsection (c) is a reminder that interest will be payable on unpaid tax amounts.

Subsection (d) makes it clear that an unpaid land and building tax will become a lien on the property. Thus the tax will be secured by the property itself.

However, subsection (e) provides that the liability for the tax can also be enforced against the owner of the property.

Sec. 443. Replacement of Other Taxes on Land And Buildings.

This section sets forth the general proposition that the land and building tax preempts other taxes on owning, occupying, or using immovable property. However, it does not preempt taxes on the transfer of immovable property.

This section is inserted merely to raise the issue of the relationship of this tax to other related taxes. Are there central, regional, or local taxes on immovable property that it is desired to continue? Are there some of these other taxes that should be allowed as a credit against, or deduction from, the land and building tax of title IV?

Section-by-Section Explanation of Property Tax on Motor Vehicles

Subtitle B — Property Tax on Motor Vehicles

Sec. 461. Imposition of Tax.

Section 461 places an annual tax on passenger cars, trucks, buses, and motorcycles having a situs in Progresa. The tax is a percentage between 3% and 5%) of the vehicle's January 1 value. The exact percentage for a year will be established in the budget for that year.

Sec. 462. Taxable Motor Vehicle.

Subsection (a) defines the term "motor vehicle" for purposes of the tax. This is a vehicle propelled by an engine (whether gas, diesel, or other) designed primarily to carry over land people or goods. While it would not cover farm tractors, earth scrapers or graders, mobile x-ray laboratories, or similar special purpose vehicles, the tax would cover ambulances and hearses.

Subsection (b) defines the term "situs." To be taxable the vehicle must be licensed in Progresa or normally kept in Progresa. The phrase "license for use on the public highways of Progresa" does not include short-term permission to use the highways, such as may be granted to vehicles normally operated outside of Progresa and being brought into Progresa by tourists, truckers, or others. Similarly, this "license" test does not apply to vehicles solely licensed for use off public highways, such as certain farm vehicles and logging trucks.

Sec. 463. Exemptions.

As a general rule, the property tax on motor vehicles will not apply to vehicles owned by a Progresa governmental unit, a foreign government, or an international organization. However, this exemption does not apply where the vehicle is used (or held for use) in an activity that is competitive with private commercial enterprises (whether or not the activity is expected to make a profit).

Sec. 464. Tax Base.

Each year the Tax Service will prepare and publish a table showing the respective tax bases for all motor vehicles. For the most widely owned vehicles, the table will be broken down by make, year, and model. However, the table may group together vehicles of the same make and model over a specified number of years in age. Similarly, there may be group categories for vehicles of types not widely held.

The tax base for any listed make, year, and model will be derived from the data collected in the most recent survey of retail prices conducted for purposes of the excise tax under section 321 on imported and domestically produced motor vehicles.

Sec. 465. Vehicles Becoming Taxable During Year.

Section 465 provides a pro-rating of the tax on a monthly basis for vehicles becoming taxable during the year. There is no provision for a credit or refund of tax if the vehicle ceases to be taxable during the year.

Sec. 466. Collection and Enforcement.

Subsection (a) places the liability for the tax on the owner of the vehicle.

Subsection (b) requires the owner to file a return of the tax. Once the system is established, the Tax Service may decide that annual returns are not necessary where ownership and situs have not changed. In such cases the Tax Service may bill the owner each year on the basis of the January 1 value of the vehicle, and the owner will be required to pay the bill on or before March 1.

Subsection (c) deals with the coordination of the property tax on motor vehicles and the granting of licenses to operate those vehicles on the public highways of Progresa. The licensing program should require each vehicle to bear one or two license plates or other visible evidence of current compliance with licensing requirements. Whether licensing is required before payment of tax or payment of tax is required before licensing, close coordination of the two programs will be a must for successful enforcement of the tax.

Section-by-Section Explanation of the Gross Asset Tax

Subtitle C — Gross Asset Tax

Chapter 1. In General

Sec. 471. Imposition.

Section 471(a) imposes an annual tax on the gross assets of resident entities. These are defined in section 12(i) as being entities organized under the laws of Progresa. The term "entity", which is defined in section 12(c), includes any corporation, cooperative, or other organization having legal status as a juridical person. The term "entity" also includes any other organization (including governmental agencies and non-profits) carrying on a business, and it includes any permanent establishment in Progresa of a nonresident person.

In general, since the gross asset tax is designed as a temporary backstop while enforcement of the entity income tax is being developed, the intent here is to cover the entities that are subject to the entity income tax of title I. However, since section 473(c) excludes from the base for the tax the first PR 1,000,000 in value of the assets, the gross asset tax will apply only to the larger entities that will ordinarily have better records and access to accounting skills.

Subsection (b) of section 471 provides that the tax each year will be 2 percent of the tax base. The 2% rate was chosen because under section 474 the value ordinarily used to determine the tax base will be the adjusted bases of the costs for income tax purposes. Particularly in countries that have experienced high inflation and have had no (or incomplete) indexing, these adjusted bases will be considerably below fair market value. In a country where the tax base more closely mirrors fair market value, a rate of 1.5% might be more appropriate.

Sec. 472. Exemptions.

Paragraph (1) of subsection (a) exempts from the tax governments and nonprofit organizations exempt from the income tax.

Paragraph (2) of subsection (a) makes it clear that this exemption does not apply to the assets of a business unrelated to the exempt functions of the government or nonprofit organization. Here the test is whether the activity is exempt from income tax. Since the gross asset tax is intended as a backstop for the income tax, it is not extended to those activities that are of a commercial type but not undertaken as business ventures. Thus it would not apply, for example, to housing projects provided for employees or the poor by governments or nonprofits if the projects had no rents or only nominal rents.

Subsection (b) of section 472 exempts new entities from the tax. The exemption will apply to the first period of operations, a period of from 24 to 36 months, depending on when during the taxable year operations begin. It was thought preferable not to give all entities the same number of months of exemption. To do so would cause difficulties of computation and of coordination with the income tax where such a period ended during a taxable year.

The new entity exemption opens the door to possible abuse. A corporation could liquidate and then reincorporate. An entity could split into two or more "new" entities. A person, rather than expanding an existing entity, could start a "new" entity and remain in control of both entities. Similarly, in the case of the holding of securities and other intangibles, where there is no underlying active business operation, it is very easy to reshuffle the portfolio into a "new" entity.

For these reasons, paragraph (2) of section 472(b) provides that the term "new entity" does not include successor entities, entities under common control, and mere passive holding entities.

The question might be asked "In view of the many avoidance possibilities, why is there an exemption for new entities?" The underlying reason stems from the fact that the gross asset tax seems to be unfair. A tax based on income or profits seems to many to be fairer than a tax on capital or wealth. Thus, some of the more glaring equitable defects of a gross asset tax are addressed in title IV. An exemption is provided for struggling entities just getting started. An exemption is provided (in section 472(c)) for the final year if an entity being completely liquidated. And section 481 allows a credit against the gross asset tax for income tax paid, with a carryback and carryforward of payments of income tax to the extent they exceed the year's gross asset tax.

Sec. 473. Tax Base; Gross Assets.

Subsection (a) provides the general rule that the tax base is to be the value of the entity's gross assets. Value is to be determined under section 474. The gross assets determination is to be made as of the first day or the taxable year.

There are a number of alternatives with respect to dates for determining gross assets. Some countries require quarterly or monthly determinations. Others use the average of values at the start and close of each period. For example, Mexico uses the average of each month's beginning and ending amounts. While we realize that more frequent determination dates will cut down on year-end asset juggling, we are not convinced that the revenue gains will be sufficient to justify the compliance costs of quarterly or monthly determinations.

Subsection (b) of section 473 sets forth the general rule that all of the assets of the entity are to be taken into account. This is done on a gross asset rather than a net asset basis. Thus there is no reduction in the tax base for liabilities. This is because to allow reductions for indebtedness would put a premium on substituting borrowing for equity investment. Furthermore, it would open up new avoidance possibilities through the use of debt.

Subsection (c) of section 473 excludes the first PR 1,000,000 of gross assets. Where two or more entities are under the control of the same person or persons, the PR 1,000,000 is divided among them, with each entity getting the same exclusion amount. For the purpose of this provision (and for purposes of the new company exception of section 472(b)(2)(B)), a test of 50 percent or more in value of ownership interests is used.

Under section 473(c)(3) direct investment (that is, an investment of 20 percent or more in value) in another entity will be excluded from the gross asset tax of the owning entity. Thus, if a corporation, for example, has a subsidiary, the stock and securities of the subsidiary held by the parent will not be included in the parent's tax base. Instead, the subsidiary's gross assets will be included in the subsidiary's tax base.

Section 473(d)(1) excludes from the tax base of an insurance company an amount equal to the cash surrender value of its life insurance policies. It can be argued that a portion of the company's assets equal to the amount the insured would receive if they surrendered their policies belongs to the insured rather than to the company.

Some countries may wish to exempt insurance companies altogether from the gross assets tax, preferring to collect any additional revenue they could receive from such companies by instead increasing the rate of the gross premiums tax described in section 152.

Section 473(d)(2) contains a special rule for loans made by a bank, savings institution, or credit union in the course of its banking activity. To levy a 2% (or even a 1%) tax on the full amount of these loans would be punitive. These loans are highly leveraged (that is, they are many times larger than the bank's assets backing them). Futhermore, in many developing countries a bank's loan portfolio contains a high proportion of non-performing loans. Even where most of these will never be collected, they are not written off because of bank regulations or political pressure. For these reasons only a fraction of a bank's loans should be included in the tax base. While we have suggested a 1/8 inclusion fraction, the proper fraction will differ from country to country.

It should be noted that this fraction is to apply only to the financial institution's loans made in the course of its banking activity. Other assets (such as the securities in its investment portfolio and its land, buildings, and equipment) will be taken into account without any such reduction.

Section 473(d)(3) limits the tax base of the permanent establishment in Progresa of a nonresident entity to the assets attributable to the permanent establishment.

Section 473(e)(1) contains the general rule that the assets counted for tax purposes are those owned by the entity. But to these are added under section 473(e)(2) all lease assets unless the lessee can demonstrate that the assets have been leased from an entity that is subject to the tax.

Section 473(e)(3) is an anti-avoidance rule. Where an entity disposes of an asset during a taxable year so the entity does not own it on January 1, the entity nevertheless will be treated as owning it on January 1 if it reacquires that asset (or a substantially identical asset) during the current year.

Sec. 474. Valuation.

Section 474(a) contains the general rule that income tax adjusted bases are to be used also to determine value for the gross asset tax. This general rule has been adopted to ease compliance and administration. Under the general rule, the value used for any pool of depreciable property will be the opening balance of the pool at the beginning of the taxable year (before adjustments for acquisitions and dispositions). In the case of inventory, the value will be the opening inventory for the taxable year.

While it is true that the income tax values for assets will be subject to the adjustments for inflation contained in section 79, some countries may wish to more closely approximate current fair market value as a tax base. In the case of land, they may wish to use the zonal value determined for purposes of the section 401 tax. Other countries may prefer fair market value based on appraisals for land and certain other types of assets. These alternative valuation methods could be provided for either by express provision in the law or in the regulations that section 474(a) authorizes.

Section 474(b) defines valuation date as January 1 of the taxable year.

Sec. 475. Return and Payment.

Section 475 provides that the entity is to file a return and pay the tax on or before March 31 of the taxable year following the year for which the tax is levied.

Chapter 2. Credits for Income Tax Paid

Sec. 481. Allowance of Credit.

Section 481 offsets the income tax against the gross asset tax. This reduction of the gross asset tax (rather than reducing the income tax by the gross asset tax) will be of importance to many foreign investors, for it will permit them to get a foreign tax credit in their own country for the Progresa income tax.

Sec. 482. Carryovers of Income Tax in Excess of Asset Tax.

Section 482(a) provides that if the income tax exceeds the gross asset tax for a taxable year, the excess may be used as an offset against gross asset tax paid in the 3 preceding taxable years. If there was a payment of gross asset tax in those prior years, it will be refunded. Any excess remaining after being carried back to the 3 preceding taxable years may be used as an offset in the 5 taxable years after the year in which the excess payment of income tax occurred. This will result in a reduction of the gross asset tax in those succeeding years.

TITLE V
ADMINISTRATION

EXPLANATION

Brief Overview

Title V contains the provisions necessary for the determination and collection of the income tax imposed by title I, the value added tax imposed by title II, the excise taxes imposed by title III, and the property taxes imposed by title IV.

The responsibility for administering all 4 sets of taxes is centralized in one official, the Tax Administrator, instead of being lodged in 2, 3, or more separate agencies. The Tax Administrator is given authority (with the approval of the Executive Power) to organize the administration of these taxes in the most efficient way, a way which will avoid duplicating and overlapping functions and underutilization of staff. And by granting the Administrator the authority (again with the approval of the Executive Power) to reorganize the staff, title V gives the necessary flexibility to meet changing needs and circumstances.

Title V grants the powers needed to determine whether tax is due and how much. Title V requires the identification by number of taxpayers, the keeping of books, the filing of returns, the answering of summons, and the furnishing of information.

Title V also provides tools to ensure that the tax determined to be owing will be paid. Thus, the title includes such sanctions as placing liens on delinquent taxpayers' property and seizing and selling that property, the collection of interest on unpaid taxes, the collection of additional charges for specified violations, and the imposition of fines and penalties for other specified violations.

At the same time, title V contains provisions safeguarding the rights of the taxpayer. It contains provisions for credits or refunds for overpayments (with interest), a procedure for administrative appeals of determinations, a Tax Court to hear all civil tax cases, the confidentiality of tax files, and the appointment of an Ombudsman to resolve problems which may arise between taxpayers and the Tax Service.

The explanation that follows clarifies the principles and meaning of the statutory draft and is intended to assist in the preparation of regulations that will implement title V when enacted.

Section-by-Section Explanation of Title V

Chapter 1. Organizations

Sec. 501. Creation of Tax Service.

Subsection (a) creates a Tax Service as an independent department of the government. The Minister of Finance will continue to have a role in formulating overall revenue and tax policy for the government, and the Tax Service will continue to furnish statistical data (without identifying taxpayers) necessary for this formulation. But the tax collection function will be removed from control by the Minister of Finance.

In some countries the legislators will prefer to keep tax collection in the Ministry of Finance because this is its traditional location and because they believe this is necessary for a closer coordination of revenue policy and revenue collection.

On the other hand, most of the tax collectors we have talked to are convinced that tax collection must be independent of the Ministry of Finance if it is to be non-political, career oriented, efficient, fair, and honest.

Subsection (b) provides that the Tax Service is to have only one job, the administration of the tax laws. Thus, the many additional functions piled on a tax administration in some countries (such as general bill-collector for the government or monitor of government budgets) would not be given to the Tax Service.

Sec. 502. Organization of Tax Service.

Subsection (a) provides that the Tax Service is to be headed by a nonpolitical Tax Administrator. The Tax Administrator is given the rank of Minister not for the purpose of drawing this officer into the political life of the government, but rather to provide the necessary rank and standing to make it possible for the Tax Administrator to be a stalwart champion (and defender) of a blue-ribbon, career-oriented Tax Service. In some countries the standing of the office of Tax

Administrator might be enhanced if the statute specified a term of years for the office (perhaps 4 years).

Subsection (b) of section 502 provides that the Tax Service will be mainly organized along functional lines.

There may be temporary periods (such as when a new major tax is being levied) when it may be desirable to give one officer responsibility for organizing all aspects of the new tax. This might be the case, for example, where a country wishes to install a value added tax for the first time. But even here we believe that in the long run the organization of the tax administration structure should be shifted away from a tax-by-tax approach to the functional approach.

The principal reason for the functional approach is that it makes possible the most efficient use of the resources of the Tax Service. For example, if the Service were organized into separate compartments on the basis of type of tax or on the basis of type of taxpayer (such as state-run enterprises, large corporate entities, small corporate entities, partnerships, proprietorships, and individuals) there would be rivalries among the compartments for staff, prestige, and money, duplication of functions, and lessened flexibility to reassign resources as overall needs change.

It should be emphasized that the division of functions for any country should be arrived at only after careful assessment of its short-term and long-term needs and resources. The functional division of the Tax Service (rather than a division based on type of tax or type of taxpayer) would carry through and apply at the regional and local offices as well as at the central office.

We believe it may be helpful to provide one example of a functional division among departments to serve as a checklist for any country organizing or reorganizing its Tax Service. The following list specifies departments that could be established within the Tax Service, together with the key functions assigned to each:

1. Collection. This includes accounting for revenue, designing returns and other forms, and developing strategies to detect non-filers and to encourage payment of back taxes.

2. Audit. This includes the preparation of a national audit plan setting forth the various methods of making audits, auditing targeted groups, and the monitoring of audit effectiveness.

3. **Investigation.** This includes steps to prevent, detect, and stop violations of the tax laws, and to ensure the security and the honesty of the operations of the Tax Service and its employees.

4. **Taxpayer Service.** This includes education and the preparation of booklets, manuals, and instructions.

5. **Operations.** This includes an evaluation of the systems and procedures, and the revenue, number of employees, and functioning of each department and office of the Tax Service.

6. **Internal Administration.** This includes the budget for the Tax Service, personnel policies, general training, salaries, allowances, office space, and motor vehicles.

7. **Computers.** This includes selection and acquisition of hardware and software, data input, the maintenance of a taxpayer master file, and the production and use of management information and revenue statistics.

8. **Policy and Legal.** This includes assistance in formulating tax policy, the drafting of proposed laws and regulations, the interpretation of new laws, the preparation of rulings and technical instructions to staff, and acting as appellate review for technical decisions.

Subsections (e) and (f) of section 502 make it clear that while the responsibility of formulating the initial plan and any reorganization plan for the Tax Service lie with the Tax Administrator, each such plan must be cleared with the Executive Power before it can take effect.

During the initial phases of putting the BWTC into effect, and during subsequent changes in taxes or methods of administration, the Tax Service should consider the desirability of using pilot projects to determine the most effective way of implementing any changes and also to serve as training areas for those who must put the changes into effect.

Chapter 2. Principles of Administration

Sec. 511. Tax System to Be Based on Principles Embodied in Code.

Subsection (a) provides that the Tax Service, in administering the tax system, is to be guided by the principles embodied in chapter 2 of title V and in the other provisions of the Code.

These principles are to stand as goals towards which the officers and employees of the Tax Service are to strive and are to help them in making their day-to-day decisions. They are also to establish overall benchmarks by which the performance of the Tax Service can be measured.

It is not intended that an alleged failure by the Tax Service to carry out a principle to the fullest extent possible should serve as the basis for legal action by a taxpayer. For example, the statement in section 512(b) that it is the duty of the Tax Service to design tax forms that are not unduly burdensome and instructions that are simple is not intended to form the basis for a taxpayer lawsuit seeking redress. However, violations of these principles can legitimately serve as the basis for complaints to the Tax Service and to the public at large.

Subsections (b) and (c) of section 511 set forth some of the principles underlying the Code. These include emphasis on self- assessment, steps to assure taxpayer compliance, and the use of certain collection tools. Provisions expanding on these principles are contained in sections 512 through 519 of the Code.

Sec. 512. Self-Assessment.

This section expands on the principle of self-assessment. It is contemplated that the income tax, the value added tax, the bulk of the excise taxes, and the assets tax of section 471 will be self-assessed on returns filed by the taxpayer.

However, Progresa and many other countries will have one or more schedular taxes that will not be self-assessed by the taxpayer. For example, section 171(k) of the Code contemplates that in certain cases wage withholding by the employer will be treated as the final tax, with no need for the employee to file a return. Another example is the withholding of tax on certain interest contemplated by section 163 of the Code. In addition, regulations may set forth other cases in which general principle of self-assessment will not be applied. Instead, the return by the withholding agent (whether the employer, the financial institution, or other) will constitute the initial assessment of the tax. This will, of course, be subject to correction by the Tax Administrator using the general assessment authority of section 532(a).

Sec. 513. Information and Education.

The Tax Service is to take the initiative in educating and informing not only its own employees, but also the public at large. This will include preparing booklets and staff guides and manuals, educating the public through informational programs, and, where appropriate, educational visits to taxpayers.

Sec. 514. Regulations and Rulings.

Subsection (a) provides that the Tax Administrator is to prescribe regulations implementing the statutory provisions of the Code. By the use of regulations, details necessary to understand how the statutory provisions apply to particular types of situations can be spelled out without cluttering up the statute and making it incomprehensible. At the same time, the use of regulations gives a flexibility to meet new situations and problems that would not be available if all implementation of the principles set forth in the statute had to be made by changes in the statute itself.

Nevertheless, regulations cannot contravene the provisions of the section of the Code they purport to interpret. Taxpayers may contest the validity of particular regulatory provisions as being inconsistent with the Code, and ultimately the courts may determine their validity. A reasonable interpretation of the Code provision will be valid, however, even if a different interpretation would not be unreasonable.

Subsection (c) authorizes a ruling procedure to clarify how the Code applies to the specific factual situations involved in actual or proposed transactions. Rulings should be issued by the central office. To permit regional or local offices to issue rulings would result in inconsistencies and contradictions.

Subsection (d) requires these rulings to be published where they involve legal principles which have more than limited application.

Sec. 515. Staffing.

This section requires the Tax Administrator to establish procedures for hiring, promoting, and firing employees. The procedures should be in writing, with ample safeguards (including appellate rights) for employees and applicants.

The Tax Administrator must fight hard for adequate salary levels and life insurance, disability, and pension benefits for the staff of the Tax Service. At the same time, the Administrator must secure and retain the power to weed out those who do not measure up, lest the Tax Service become the life-long home of the incompetent bureaucrat. In addition, special steps must be taken (perhaps by establishing a special unit within the investigation department) to prevent, detect, and stop corruption within the Tax Service.

Sec. 516. Identifying Numbers.

This section requires every taxpayer to have a taxpayer identification number. This requirement also applies to any person making a payment to another person if the recipient is subject to any tax under the Code on the payment.

The number furnished to any person under this provision is expected to be the same as the number furnished to that person for other purposes (such as administration of the customs laws). In some countries legislation requires this same registration number to be used when a person applies for a license to operate a vehicle or wishes to engage in specific financial transactions or to receive utility services.

Sec. 517. Books and Records; Information.

Subsection (a) requires the keeping of books and records. The taxpayer must give access to these books and records to the agents of the Tax Administrator who show the taxpayer their authority to request such access.

Subsection (b) deals with returns, forms, and other information. In connection with the registration of non-profit organizations, or the preservation of tax-exempt status under section 91(b), the Tax Administrator may demand information verifying the nature of the organization, as well as verifying its compliance with its obligations as a withholding agent and its liability for entity taxation under title I on its business activities (see section 92).

Under subsection (c) of section 517 the Tax Service may require third persons (such as pass-throughs, trusts, banks, payors generally, etc.) to file information returns or furnish other information where the information is necessary for the enforcement of the revenue laws.

Sec. 518. Computers and Other Modern Equipment.

Subsection (a) contemplates that a centralized computer system will be installed as soon as practicable. However, subsection (d) makes it clear that much of the initial data entry will take place at the local level.

Under a completely decentralized administrative structure accurate reporting and accounting for tax liabilities, tax abatements, and tax payments become very difficult. To remedy this situation, subsection (b) of section 518 requires recording of all these matters in a master file in a central clearing house for tax liabilities. Subsection (c) of section 517 requires a tax officer to receive written confirmation of the tax liability from the clearing house before taking any steps to collect the tax liability.

Subsection (e) makes it clear that within budgetary constraints the Tax Service is to stay abreast of the rapid changes taking place in information gathering, storing, and retrieval systems. It contemplates regulations under which data reproduced by modern techniques will be admissible as evidence in administrative and judicial proceedings.

Sec. 519. Use of Banks.

This section contemplates using banks for the first rough processing of returns and for the receipt of the accompanying tax payments. The return system, whether on a monthly, quarterly, or annual basis, tends to bunch together these functions around the last date on which filing and payment can be made without penalty. By sharing these functions with the banks, the Tax Service can smooth out manpower needs, at the same time that it encourages taxpayers to establish accounts in banks to handle their tax and other financial transactions.

The requirements of section 574 of the Code that files be kept confidential will of course apply to the processing of tax returns by banks and their employees.

Chapter 3. Other General Provisions

Sec. 521. General Requirement of Returns.

Subsection (a) of section 521 contains the general requirement that taxpayers and persons charged with withholding or otherwise collecting tax are to make returns.

Subsection (b) of section 521 requires persons who prepare returns for a consideration to sign the returns.

Sec. 522. Filing Dates.

Subsection (a) provides that the date for filing income tax returns for a year is to be March 31 of the next year. The filing date for other returns and documents will be those prescribed either in the Code or in regulations.

Sec. 523. Authority to Make Credits or Refunds.

This section permits the Tax Administrator to credit overpayments of income tax and excise taxes against other liabilities for such taxes. Any excess overpayment of these taxes is to be refunded to the taxpayer. For reasons stated in the explanation of sections 232, 233, and 234, overpayments of the value added tax are to be handled separately, with prompt crediting and refunding. The regulations provided under section 523 will set forth the procedures under which overpayments of the property taxes imposed by title IV will be refunded (or credited).

Sec. 524. Taxpayer Representatives.

This section places duties on guardians, administrators, and other persons acting by law or de facto as taxpayer representatives to fulfill the obligations under the Code and regulations of the persons they represent.

Chapter 4. Payment; Assessment and Collection

Sec. 531. Time and Place for Paying Tax Shown on Return.

This section requires the taxpayer to file a prescribed return and to pay the tax shown on that return without assessment, notice, or demand from the government.

Sec. 532. Assessment Authority.

Subsection (a) grants the Tax Administrator assessment authority.

Subsection (b) makes it clear that the burden of challenging any assessment by the Tax Service will be on the taxpayer.

Subsection (c) deals with cases where the taxpayer is required to file a return showing the amount of tax due. This is to operate as a self-assessment, and the tax is due and payable without notice and demand from the government. However, if the designated tax officer later determines (within the period for assessing the tax) that the amount shown on the return is incorrect, subsection (d) provides that the officer will assess and record the correct amount and notify the taxpayer of the amount of the overpayment or underpayment.

Sec. 533. Payment on Notice and Demand.

Subsection (a) provides that where the taxpayer receives notice and demand from the Tax Administrator stating that tax is due and the amount of tax (including related amounts such as interest and additional charges), the taxpayer is required to pay that amount at the place and time set forth in the notice. For appeals relating to assessments, see sections 571 and 573.

Subsection (b) sets forth the method of delivering the notice required by subsection (a) or by any other notice requirement to which this delivery method is made applicable by the Code or regulations.

Sec. 534. Collection Authority.

Subsection (a) places the duty of collecting the taxes imposed by the Code on the Tax Administrator.

Subsection (b) deals with the methods which may be used for collecting taxes. Although it is contemplated that the income tax, value added tax, excise taxes, and assets tax will generally be collected by returns, subsection (b) authorizes the Tax Administrator to provide by regulations that other methods are to be used.

Sec. 535. Rules for Taxes Collected at Source.

This section deals with amounts required to be withheld or otherwise collected by third persons. Such amounts are to be collected in the same manner as taxes and are to be held as special trust funds that are the property of the government. Of course, the time for paying over to the government amounts collected by third persons will be established under regulations, rather than under the rules for the due dates of the underlying taxes being collected.

Chapter 5. Liens; Levies.

Chapter 5 deals with liens and levies. As used in this chapter, the term "lien" means the right of the government to take and hold property of the taxpayer as security for payment of tax and the right to sell such property and apply the proceeds of the sale to the tax. The term "levy" means the seizure or other taking of property for the payment of the tax due the government.

The provisions of chapter 5 will have to be adapted to fit in with a country's legal norms. However, the important thing is to be sure that the Tax Service is given adequate collection tools. In most cases, liens and levies will be more effective enforcement tools than criminal sanctions.

Chapter 5. Liens; Levies

Sec. 541. Lien for Taxes.

Subsection (a) provides that the liability for tax (including interest, additional charges, and penalties, together with costs of collecting the foregoing) is to be a lien on the property of the person having the liability.

Subsection (b) provides that if a lien is properly filed, it shall have priority over all other liens not already filed against the property.

Subsection (c) sets forth one administrative procedure that may be used for releasing an erroneously filed lien.

Sec. 542. Seizure of Property to Collect Tax.

This section permits the levy on (or seizure of) property of a taxpayer who fails to pay tax after 10 days notice and demand for payment and 30 days notice of intention to make such levy. The 10 and 30 day notice periods apply in all cases except jeopardy situations where collection is in danger. A levy may be applied to a taxpayer's wages or salary by serving notice on the employer. However, regulations may prescribe exemption for certain amounts of compensation and other periodic income, clothing, food, furniture, personal effects, and tools of the taxpayer's trade. The property seized pursuant to a levy may be sold to satisfy the taxpayer's obligation.

Sec. 543. Enforcement of Levy.

This section imposes a duty on any person who controls the seized property to surrender the property and honor the levy. The section protects the person who honors the levy from liability for so honoring it.

Sec. 544. Production of Books.

This section requires the production of books and records relating to property subject to seizure.

Sec. 545. Taxpayer Safeguards.

This section provides that —

(1) the power to seize and hold property to satisfy a tax liability may be used only by officers and employees of the Tax Service, and

(2) any proceeds from the sale of seized property not needed to satisfy the taxpayer's tax liabilities will be promptly returned to the owner of the property.

Chapter 6. Periods of Limitation

Sec. 551. Period of Assessment.

This section prescribes the period during which a tax may be assessed. Generally, the period is 3 years from the filing date (or due date for the return, if later). However, there is no cut-off where no return has been filed or where a fraudulent return has been filed.

Sec. 552. Period for Collection.

This section permits collection of assessed tax liabilities during the 6-year period after assessment. This period may be extended if the taxpayer agrees. Initiation of court proceedings for collection suspends the running of the period for collection. Also, if a physical person is outside Progresa continuously for 6 months or more, the running of the period for collection is suspended.

Sec. 553. Period for Credit or Refund.

This section requires a claim for credit or refund of an overpayment of tax to be filed within 3 years from the date the tax was paid. In the case of a timely filed claim, the taxpayer may continue to pursue administrative and judicial remedies beyond the 3-year deadline.

Chapter 7. Interest; Additional Charges

Sec. 561. Interest.

This section provides that interest will be payable on underpayments and overpayments of tax. For this purpose a tax shall not be treated as overpaid for any period before the due date for the tax.

Section 561(c) provides that the interest rate is 120 percent of the prime commercial rate.

Sec. 562. Additional Charges.

This section provides for additional charges for various violations such as failure to file a timely return, negligence, and fraud. These additional charges are to be administratively determined, assessed, and collected as if they were taxes.

Section 562(d) provides additional charges with respect to the information returns that may be required under section 517(c).

Chapter 8. Violations Punishable by Fine or Imprisonment

Sec. 566. Violations.

This section provides criminal sanctions (fines and imprisonment) for persons convicted of violating the Code or regulations prescribed thereunder. The section does not affect the application of the Penal Code to such violations.

Sec. 567. Convictions to be Publicized.

This section endorses the use of publicity of convictions of tax violations as a method of increasing compliance with the tax laws.

Chapter 9. Taxpayer Rights

Sec. 571. Administrative Appeals.

Subsection (a) provides that a taxpayer may appeal a tax determination affecting tax liability. Under subsection (a) the appeal constitutes a request for reconsideration by the officer who made the initial determination. Some countries have suggested this review by the initial officer not only as a face-saver for the officer and the Tax Service but also as the quickest method of correcting obvious mistakes.

In general, the administrative appeals under subsections (a) and (b) of section 571 will take place (beginning within the 30-day periods prescribed in the statute) at any time before judicial appeal is initiated under section 573.

Subsection (b) of section 571 contemplates the establishment of Administrative Review Boards, staffed with experienced officers of the Tax Service. Except where regulations permit further appeal to the Tax Administrator, the review by the Board will be the final administrative review. To limit appeals to the Tax Administrator in this way will increase efficiency without undue diminution of the taxpayer's rights. As a practical matter, the Tax Administrator would delegate most review functions vested in him or her to subordinates.

Subsection (d) provides that a timely filed appeal under subsection (a) or (b) will suspend the obligation to pay until the matter is resolved. However, this suspension will not affect the period for which interest or similar amounts are due if there is any outstanding underpayment when the appeal is finally determined.

Sec. 572. Dispute Review Officers.

Section 572 contains one of the more controversial provisions of title V. Section 572 grants authority to compromise tax cases instead of requiring that each position taken by the Tax Service be maintained until the taxpayer gives up or the court rules against the Tax Service. Many countries will view this grant of authority as an invitation to favoritism and corruption. We have included section 572, with safeguards against abuse, in the belief that proper implementation of this provision will lead to more efficient tax administration.

Sec. 573. Tax Court Created.

Subsection (a) creates a Tax Court for the judicial resolution of cases and controversies involving alleged tax deficiencies, overpayments, and other tax matters. No other courts of Progresa will have original jurisdiction over civil tax cases.

This exclusive jurisdiction is granted to assure uniform interpretation of the tax laws and because deciding tax issues requires a specialization that the judge of a court of general jurisdiction could not be expected to have.

Subsections (b) and (c) provide for the appointment of 5 judges to staggered 10-year terms. They will be removable only for cause.

Subsection (d) provides that decisions of the Tax Court may be appealed to the highest court of Progresa.

Sec. 574. Tax Files Must Be Kept Confidential.

This section provides for confidentiality of taxpayer files. Violations of this requirement are punishable under section 566(a)(11).

In almost every country we have visited concern was expressed about the need to keep taxpayer information confidential. This concern arises not only from past abuses by the government against suspected political opponents and from pride in new-found rights. It arises also from fear that the information may be turned over to organized crime. Indeed, in one country it was suggested that all information with respect to a taxpayer be kept under a file number, with the matching of that number to the name and address of the person involved kept guarded in a secret vault.

Obviously, in the administrative provisions included in the Code we have not gone the secret vault route. But we feel that maintaining the confidentiality of tax information will be vital to securing voluntary compliance with the tax laws.

Sec. 575. Establishment of Ombudsman (Official to Resolve Problems).

This section establishes an independent office to listen to taxpayer complaints and to try to resolve conflicts between the taxpayer and the tax administrators. The head of this office will be appointed by the Executive Power rather than by the Tax Administrator in order to ensure the necessary independence.

It can be argued that to include a provision for an Ombudsman is to acknowledge from the start that the Tax Service will not carry out its mission with fairness and consistency. However, the experience in the United States with this type of listener and conflict resolver has been so positive that we have included section 575 as worthy of consideration. The probable reason for its success is that it makes available a person who can understand disputes from the points of view of both administrators and taxpayers and, with this perspective, can bridge differences and promote accommodation.

Chapter 10. Repeal of Inconsistent Laws

Sec. 581. Repeal of Inconsistent Laws.

This section modifies and repeals existing legislation of Progresa to the extent it is inconsistent with the new Code. Before the final enactment of the Code, the affected existing legislation will be identified and specifically referred to in the enacting legislation.

Sec. 582. Liabilities Preserved.

This section preserves existing liabilities for tax or penalty.

Chapter 11. Effective Date

Sec. 591. Effective Date.

Section 591 proposes as a general effective date for the new Code January 1, 1996.

SUBJECT INDEX

CODE SECTION INDEX